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8 UNITED STATES DISTRICT COURT  
9 FOR THE EASTERN DISTRICT OF CALIFORNIA  
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11 UNITED STATES OF AMERICA,

12 Plaintiff,

13 v.

14 JOHN L. ALIMENTI,

15 Defendant.  
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No. 2:20-mj-0094-CKD

ORDER

(ECF Nos. 30, 31)

17 This criminal case is currently set for a bench trial beginning on Monday, December 13,  
18 2021 before the undersigned. On December 6, 2021, the parties each filed one motion in limine  
19 to exclude the admission of certain evidence at trial. (ECF Nos. 30, 31.) The government moves  
20 to exclude any testimony by defendant's proposed expert Minh X. Tran based on failure to  
21 provide timely notice and complete disclosure of the expert opinions. (ECF No. 30.) Defendant  
22 moves to exclude evidence regarding state DUI charges for incidents occurring after the subject  
23 incident in this case. (ECF No. 31.)

24 Defendant opposes the government's motion on the grounds that defense counsel has kept  
25 the government as informed as possible regarding Mr. Tran's retention and on December 8, 2021  
26 provided the government with a summary of Mr. Tran's opinions and the basis for them; and that  
27 the government has been on notice that defendant would call a toxicology expert since before this  
28 trial was continued in April 2021 rendering unavailable defendant's previously disclosed

1 toxicology expert. (ECF No. 36 at 2-3.) The court is persuaded by defendant's arguments;  
2 however, if the government determines that it is unduly prejudiced by the timing of Mr. Tran's  
3 disclosure, the court will entertain a motion to continue the trial to allow the government more  
4 time to prepare for Mr. Tran's testimony.

5 In response to defendant's motion, the government states that although it produced in  
6 discovery several police reports regarding the subsequent DUI charges, it will only seek to  
7 introduce testimony regarding those incidents if the defense case or defendant's testimony render  
8 it relevant for impeachment or rebuttal purposes. (ECF No. 32.) The government maintains this  
9 position in its trial brief as well (ECF No. 35 at 6), thereby mooting defendant's motion in limine.

10 Accordingly, it is HEREBY ORDERED that:

- 11 1. The government's motion to exclude expert testimony by defendant's proposed expert  
12 Minh X. Tran (ECF No. 30) is DENIED. Should the government wish to continue the  
13 trial in light of Mr. Tran's recent expert disclosure, the government must notify the  
14 court no later than 12:00 PM on Friday, December 10, 2021; and
- 15 2. Defendant's motion to exclude evidence of his subsequent DUI state charges (ECF  
16 No. 31) is DENIED as moot. As agreed, the government shall not present evidence  
17 relating to defendant's December 24, 2019 or July 4, 2020 state charges, except as  
18 relevant for impeachment or rebuttal purposes.

19 Dated: December 9, 2021

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21 CAROLYN K. DELANEY  
22 UNITED STATES MAGISTRATE JUDGE  
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